



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
KNOXVILLE ENVIRONMENTAL FIELD OFFICE
3711 MIDDLEBROOK PIKE
KNOXVILLE, TENNESSEE 37921-8538
PHONE (865) 594-6035 STATEWIDE 1-888-891-8332 FAX (865) 594-8105

September 24, 2012

CERTIFIED 7011 0110 0001 8750 5283

Mr. Derrick O'Neal, Attorney-in-Fact
National Coal LLC
650 Airbase Lane
Briceville, Tennessee 37710

Re: NOTICE OF VIOLATION

National Coal LLC
Tipple #2
NPDES Permit TN0053848
SMCRA Permit 3251
Campbell County

Dear Mr. O'Neal:

On September 17, 2012, Division personnel conducted an NPDES inspection of Tipple #2 on Cove Creek. This inspection was in response to a complaint concerning black water leaving your facility and causing a pollution condition in Cove Creek. During the inspection, the following conditions were observed:

Division personnel observed that diversion ditch D-2.1.1 berm had developed a breach. This condition allowed black wastewater to bypass the treatment system and flow untreated into a storm water sump and into Cove Creek. This sediment laden discharge was depositing sediment into and changing the color of Cove Creek.

Culvert C-2.1.1 appeared to be clogged and had resulted in the level of the wastewater to rise, causing a discharge over the berm. (See attachment.)

These conditions have resulted in the following violations:

- The discharge of wastewater at an unpermitted location violates your NPDES Permit - Part II, A, 4. Proper Operation and Maintenance. *b. The permittee shall at all times properly operate and maintain all facilities and systems (and related appurtenances) for*

Mr. Derrick O'Neal, Attorney-in-Fact
National Coal LLC
Page 2

collection and treatment installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

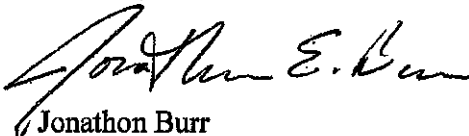
- The sediment being deposited in Cove Creek is a violation of the narrative of the *Tennessee General Water Quality Criteria, Chapter 1200-04-03-.03(3)(c) Solids, Floating Materials and Deposits.*
- Failure to report an unpermitted discharge is a violation of the terms and conditions of Part II C. 2. of your NPDES permit.

Due to these violations, National Coal LLC is required to complete the following items:

- First, immediately repair the berm and stop discharging untreated mine wastewater to the receiving stream.
- Second, respond to this office with a written explanation as to why the violations have occurred within ten (10) days of your receipt of this notice. This response should include a proposed plan describing what measures will be taken to prevent a reoccurrence of these violations.

If you have questions concerning this matter, telephone Micheal Robbins at (865) 594-5542, Dave Turner at (865) 594-5541, or me at (865) 594-5520.

Sincerely,



Jonathon Burr
NPDES Program Manager
Mining Section
Division of Water Pollution Control

JEB:DAT:MRR

Enclosure

cc: Bill Winters, OSM (email)
NPDES & NOV Files



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COMPLAINT INVESTIGATION REPORT MEMO

TO: Jonathan Burr and Complaint File
CC: Dave Turner, DWR (Email)
Derrick O'Neal (Email)
Bill Winters, OSM (Email)
FROM: Micheal Robbins
DATE: September 24, 2012
SUBJECT: National Tipple 2 facility, NPDES Permit TN0053848, SMCRA Permit 3142
LOCATION: Campbell County
Cove Creek watershed

CHRONOLOGY OF EVENTS

- September 17, 2012, the Mining Section received a call from Tim Rudder (OSM Inspector). Mr. Rudder reported that he had observed muddy water leaving the Tipple 2 facility directly into Cove Creek.
- September 17, 2012, Micheal Robbins of Mining Section proceeded to the site to investigate the complaint.

OBSERVATIONS AND DETAILS

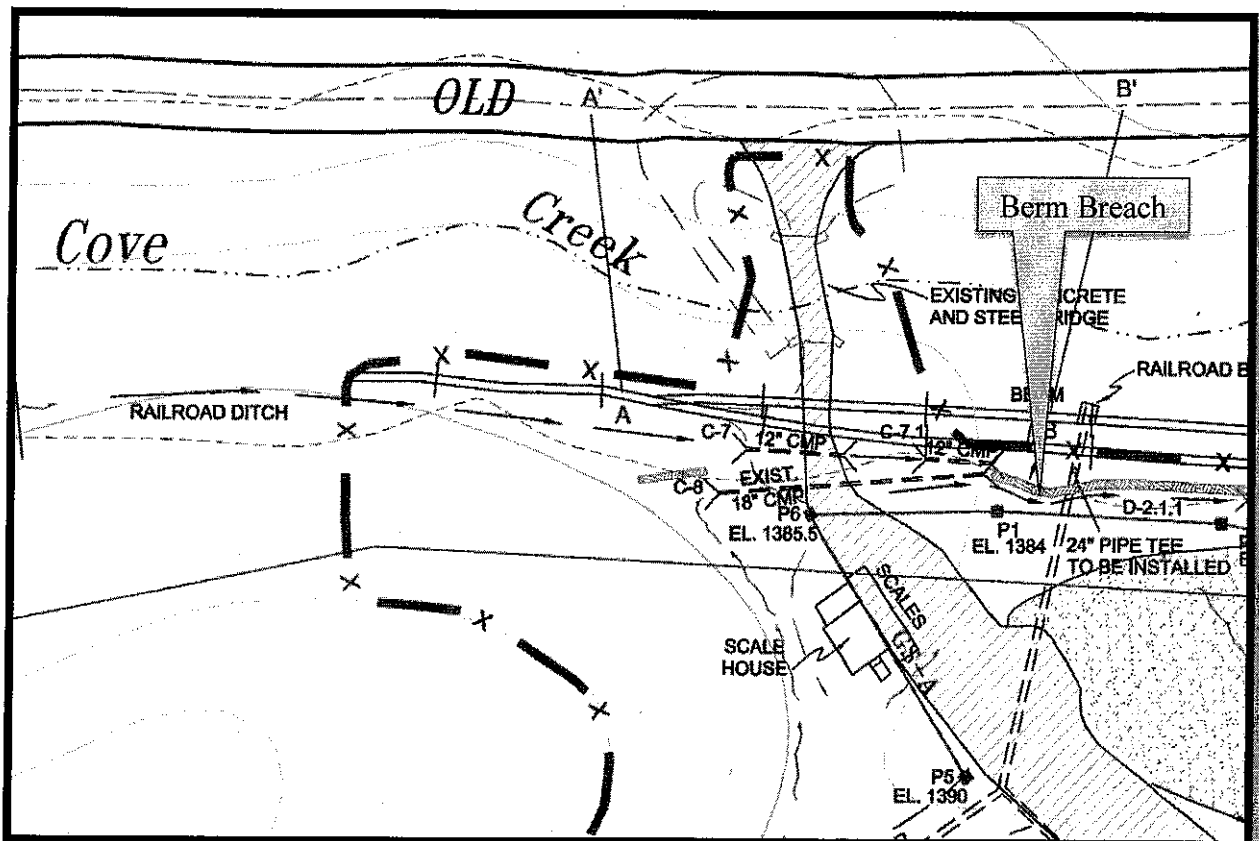
On September 17, 2012, Micheal Robbins of the Mining Section conducted a site investigation to determine the source and cause of the black water leaving the tipple facility and to document any impacts to the *Waters of the State*, Cove Creek. Photographs were taken of the points of the interest, field measurements were taken of the discharge using an Hannah HI 991300N meter, and grab samples were collected and taken to the State of Tennessee Knoxville Environmental Laboratories for analysis.

The following are a list of observations during the investigation:

- Black water (high in solids) observed leaving site downstream of facility access bridge.
(See Map.)

- A breach in the berm between the railroad tracks and coal storage area had developed, allowing untreated mine wastewater discharge from the site to Cove Creek. (See Photo #1.)
- Black water was discharging into a small sump collecting water from an underdrain culvert and Culverts C-7.1 and C-8, then was draining to Cove Creek. (See Photo #2.)
- The berm is designed to direct facility wastewater drainage into an 18-inch culvert, C-2.1.1, then to ditchline D-2.1, on to Basin 001 for treatment and discharge to Cove Creek.
- It appeared that culvert C-2.1.1 was partially clogged and was not allowing the wastewater to flow to the basin for treatment. The impounded water was flowing over the lowest portion of the berm into the lower sump. (See Photo #3.)
- A sediment bar of gravel and silt was observed at the confluence of the discharge and Cove Creek. (See Photo #4.)
- A plume of muddy water was observed downstream in Cove Creek. (See Photo #5.)
- Field measurements were taken of the breach discharge with a Hannah HI 991300N. The measurement were as follows:
 - Temperature = 20.8° C
 - pH = 7.80 s.u.
 - Specific Conductance = 249 μ S/cm
 - Flow = <10 gpm

Map and Photos



PHOTOS

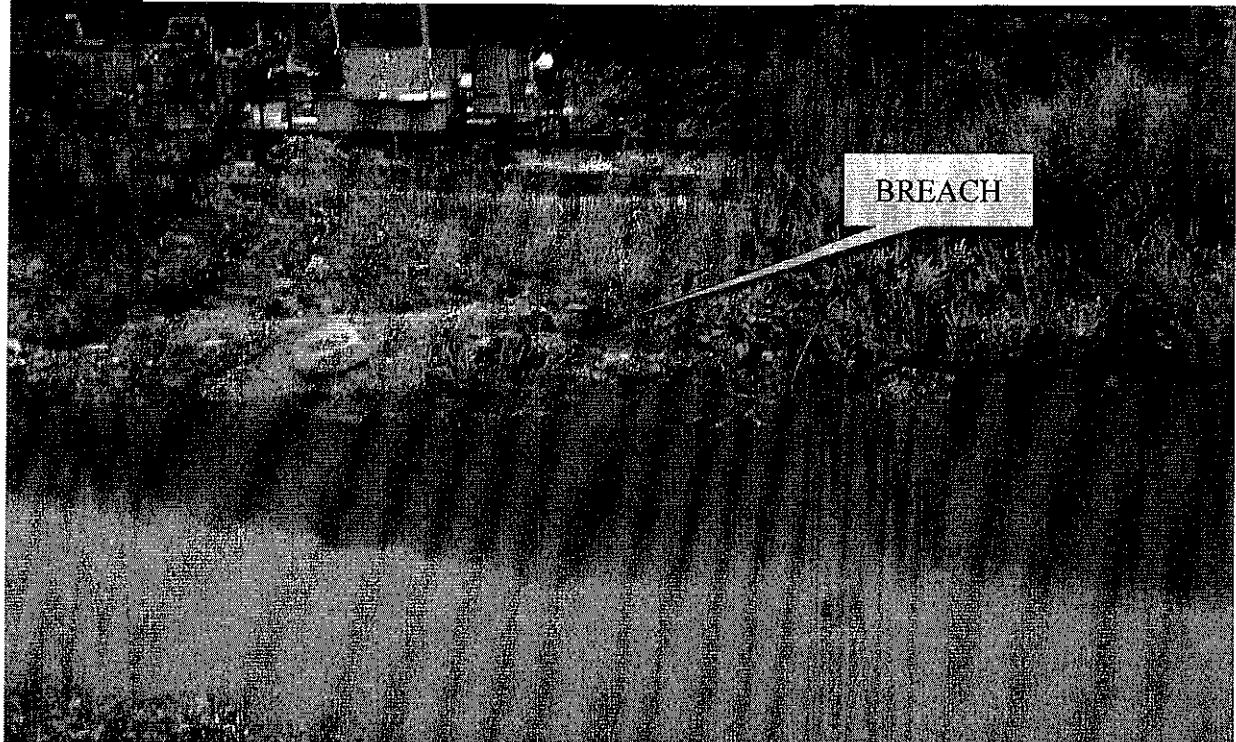


Photo #1—Berm with breach in center



Photo #2—Breach with lower sump



Photo #3--Sediment and plume in Cove Creek (stream flows to right)



Photo #4 Plume in Cove Creek

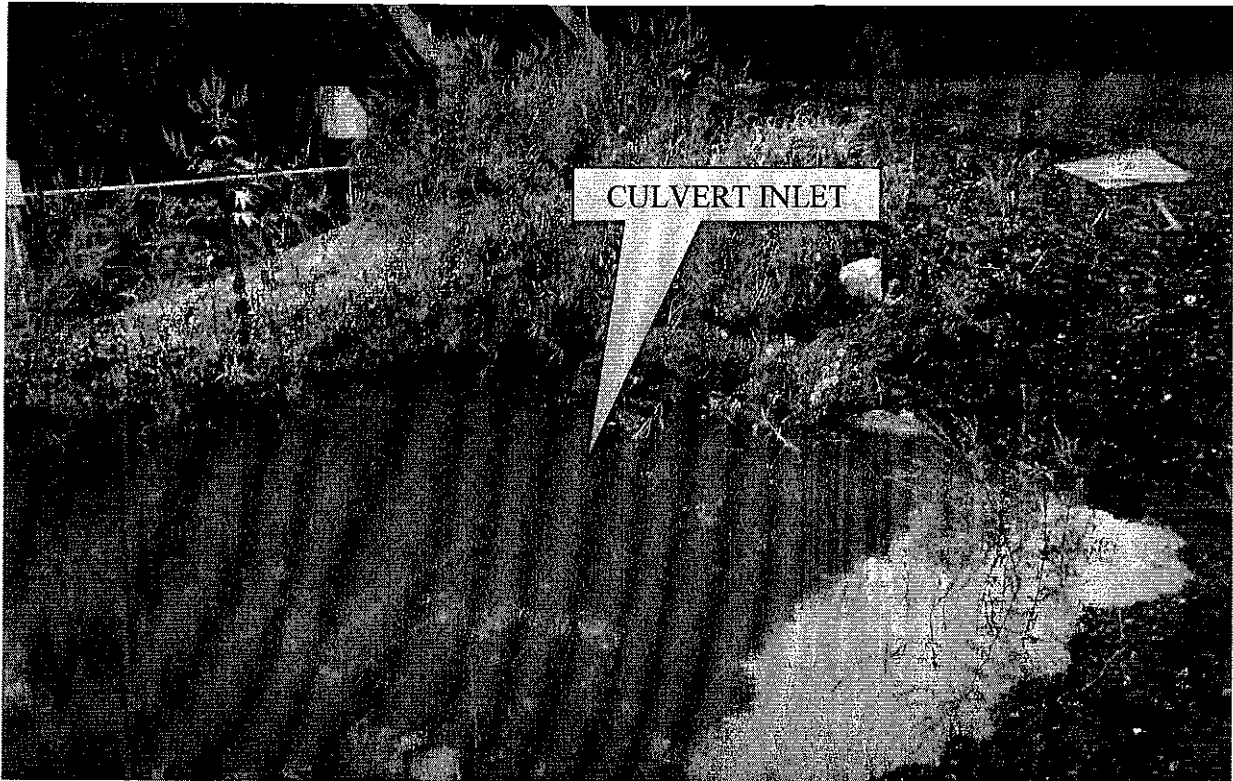


Photo #5--Culvert C-2.1.1 (inlet submerged)

BACKGROUND AND COMMENTS:

Mr. Tim Rudder had previously informed National Coal LLC of the condition of the berm and the possibility of offsite damage occurring during a storm event. According to the NOAA AHPS Precipitation Analysis website the area had approximately 0.5 inches of rainfall on Monday the 17th.

The Division observed at least two water quality violations during the investigation.

1. The discharge of untreated mine wastewater from the breach in the berm violates the terms and conditions of Part I A. 1. and Part II A. 4. of your NPDES Permit TN0053848.
2. Failure to report an unpermitted discharge is a violation of the terms and conditions of Part II C. 2. of your NPDES permit.
3. The sediment being deposited in Cove Creek is a violation of the narrative of the *Tennessee General Water Quality Criteria, Chapter 1200-04-03-.03(3)(c) Solids, Floating Materials and Deposits.*

The grab sample laboratory analysis has not been completed at this time. The results of the report will determine if the additional water quality violations had occurred.

National Coal LLC

Tipple 2

9/24/2012

Page 6 of 6

RECOMMENDATIONS:

The first priority is for National Coal LLC to repair the diversion berm and eliminate the breach allowing the unpermitted discharge. Secondly, National must make appropriate changes to their wastewater treatment plan to insure future compliance with the NPDES permit and the state General Water Quality Criteria. A maintenance schedule should be included in the amended treatment plan.